



California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson



Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold
Schwarzenegger
Governor

January 23, 2006

Mr. Chris Dart
Danco Builders
5251 Ericson Way
Arcata, CA 95521

Dear Mr. Dart:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for Riverview Terrace Subdivision

File: Riverview Terrace Subdivision, Fortuna
WDID No. 1B05037WNHU

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request (applicant) for Water Quality Certification to fill wetlands and modify a stream channel in order to build an access road for a new housing development in Fortuna, Humboldt County. On April 20, 2005, the Regional Water Board received your application and a \$2085.50 processing fee. On June 6, 2005, we deemed the application complete and posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We received comments during the public comment period. Regional Water Board staff considered the comments and requested submittal of a revised wetland mitigation plan and an adequate storm water drainage plan that includes post-construction Best Management Practices for storm water treatment. You submitted a storm water drainage plan and a revised mitigation plan on December 5, 2005 and a letter containing additional storm water management information on December 27, 2005.

Project Description: This project is part of a new housing development that includes supporting roads, utilities, and other related services. The project is located southeast of the intersection of Loop Road and Rohnerville Road. The primary elements of the housing development that are subject to this Water Quality Certification are the filling of wetlands to 1) build the new access road, 2) to widen a section of an existing road, and 3) to install a detention basin for controlling storm water runoff from the new development. Storm water discharged from the detention basin will flow into a vegetated swale designed to provide additional storm water treatment.

California Environmental Protection Agency

An existing 36-inch culvert at Loop Road and Little Loop Creek will be replaced with a 54-inch culvert. The existing culvert is a potential fish barrier because it is crushed, only about 20 percent of the culvert outlet is currently open, and the culvert outlet is about 18-inches above the water surface in the creek. The new culvert will be set deeper to match the flow line of the creek

Construction of the new access road requires filling approximately 20,800 square feet of existing wetlands and installation of a 72-foot long culvert in Little Loop Creek where the new access road crosses. Widening Loop Road at the intersection of Rohnerville Road will permanently impact approximately 1,150 square feet of wetlands. Construction of the 11,000 square foot storm water detention basin will require filling of approximately 2,700 square feet of existing wetlands. The total area of wetlands permanently affected by the project is 24,650 square feet (0.57-acre). Utility line trenching will have additional temporary impacts to onsite wetlands.

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|---------------------------|--|
| Receiving Waters: | Unnamed tributary (referred to as Little Loop Creek) to Strongs Creek in the Ferndale Hydrologic Subarea No. 111.11 |
| Filled or Excavated Area: | Area Temporarily Impacted: 0.1 acre of wetlands Area Permanently Impacted: 0.57 acre of wetlands |
| Total Linear Impacts: | Length temporarily impacted: none Length permanently impacted: 72 feet of stream channel |
| Federal Permit: | U.S. Army Corps of Engineers Individual Permit (277550N) |
| Compensatory Mitigation: | Compensatory mitigation for the permanent wetland impacts includes creation of 1.7 acres of wetland at an offsite area located on the north side of Foster Avenue, between Janes Road and Q Street, in Arcata. |

A wetland enhancement project will also be implemented onsite that involves expanding the riparian buffer along Little Loop Creek to mitigate for the removal of 2,331 square feet of marsh habitat and filling 72-feet of creek channel (approximately 5,230 square feet of riparian habitat) due to culvert placement.

The applicant has prepared a *Mitigation and Monitoring Plan for Riverview Terrace* that includes a grading plan, planting plan, vegetation management plan, and five-year monitoring plan. Annual performance criteria for the created wetland will be based on percent cover of wetland plant species over the mitigation area.

Final success criteria for the created wetland area requires at least 50 percent cover by wetland plants not more than five years after the area is planted. Annual reports of mitigation monitoring will be prepared.

Noncompensatory
Mitigation:

Noncompensatory mitigation measures include the use of Best Management Practices for sediment and turbidity control and heavy equipment use near wetlands and stream channels. The applicant has applied for a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.

CEQA Compliance:

The City of Fortuna, as the lead agency for CEQA, approved a Mitigated Negative Declaration for this project on November 16, 1998.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify the Regional Water Board in writing at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the

opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.

- 2) All conditions listed in this Water Quality Certification must be included in the Plans and Specifications prepared by the applicant for the Contractor. All conditions shall be implemented according to the most current information submitted for this application and this Water Quality Certification.
- 3) A copy of this permit must be provided to the contractor and all subcontractors conducting the work, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 4) Adequate Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 5) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 6) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 7) All materials used for cleaning concrete from tools and equipment, and any wastes generated by this activity, shall be adequately contained to prevent contact with soil and surface water and shall be disposed of properly.
- 8) Fueling, lubrication, maintenance, operation, storage and staging of vehicles and equipment shall be outside of waters of the United States and shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which

leaks any substance that may impact water quality.

- 9) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 10) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 11) All work within waters of the United States shall not commence until June 15th and shall be completed prior to October 15th.
- 12) All activities, Best Management Practices, and associated mitigation will be conducted as described in this Permit and the application for this project.
- 13) Storm water retention and treatment controls require long-term maintenance to continue to function effectively and avoid the creation of nuisance conditions. The final subdivision map for the project shall incorporate a minimum 20-foot wide easement to provide for access and maintenance of all storm water detention and treatment features. All storm water retention and treatment controls shall be adequately maintained in perpetuity.
- 14) The applicant shall submit a signed statement to the Regional Water Board accepting responsibility for maintaining the storm water basin and all storm water treatment controls until this responsibility is legally transferred. Any person or entity accepting this responsibility shall submit a signed statement to the Regional Water Board upon the transfer of this responsibility.
- 15) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact

with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Riverview Terrace Subdivision Project, (Facility No. 1B05037WNHU) will comply with the applicable provisions of sections 301 (“Effluent Limitations”), 302 (“Water Quality Related Effluent Limitations”), 303 (“Water Quality Standards and Implementation Plans”), 306 (“National Standards of Performance”), and 307 (“Toxic and Pretreatment Effluent Standards”) of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant’s project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on January 23, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Dean Prat of our staff at (707) 576-2801 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure:

State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Mr. Misha Schwarz, Winzler & Kelly Consulting Engineers, 633 Third Street, Eureka, CA
95502-1030